

## 49 Years of Control without Rights

### Human rights of the Palestinians in the West Bank and East Jerusalem - What has changed?

At first glance, it may seem that the condition of the Palestinians who live in the territories occupied by Israel in June 1967 has changed little, despite the passing decades. Yesterday's headlines are the same as today's: confrontations, arrests, military rule, terror attacks, house demolitions, land confiscation. It's easy to gain the impression that there is nothing new under the scorching sun of the Middle East.

However, closer scrutiny reveals new paths and markings on the familiar map. New headlines have been added throughout the years: Settlements and outposts. The Palestinian Authority. The Disengagement from Gaza. Prohibited roads. Walls and fences. Checkpoints and permits.

Israeli control of the Territories changes over time, assuming and abandoning new forms. After almost three decades of exclusive Israeli rule, the Palestinian Authority was established. A decade later, Hamas consolidated its control of the Gaza Strip. Yet for all these changes, Israeli rule over the entire area between the Jordan River and the Mediterranean remains the most influential force shaping the everyday lives of all those who live in this area. Israel's power imposes a heavy responsibility.

**The Association for Civil Rights in Israel (ACRI) is publishing this document at the beginning of the 50<sup>th</sup> year of occupation. The paper outlines the changes that have transformed the Territories into a divided and dissected area. The different degrees and forms of Israeli control that apply in this area create systemic violation of the basic human rights of millions of people. Control without human rights – for 49 years.**

### The Fragmentation of the Territories

We tend to think of the "Territories" as a distinct area or entity. However, over the five decades since 1967, a dramatic process of division has occurred in the area, causing grave damage to Palestinian residents on the individual, community, and national levels:

**East Jerusalem was annexed** officially by Israel in June 1967, in violation of international law and without granting full rights to the residents of the city. The Israeli policy that developed isolated and [devastated](#) East Jerusalem, which had previously functioned as an economic, political, social, and religious power base.

In addition to the annexation, which created a legal separation between East Jerusalem and the West Bank, the two areas were physically divided a decade ago with the construction of the Separation Barrier. The route of the concrete wall [divides communities](#) and disrupts the natural connection between the Palestinian population in and around Jerusalem.

**The gradual expansion of the settlements**, together with the roads leading to settlements and outposts, have over the years created new and large areas in the West Bank and East Jerusalem in which Palestinian movement or residence is limited, restricted or prohibited, while Israeli citizens enjoy access to the same areas. This too is carried out in violation of international law.

**Closed areas** in the West Bank and Jerusalem from which Palestinians are excluded have also been created by declaring areas [firing zones](#) for training exercises, [closed military zones](#), [archeological sites](#), and [national parks](#). These measures force Palestinian communities to live under [a regime of prohibitions](#) that prevents normal life and leads to the forced or coercive eviction of families and communities.

The **Oslo Agreements** led to a significant change with the division of the West Bank into Areas A, B, and C, and the establishment of the Palestinian Authority. The division was made along artificial geographical lines that separate areas that are actually closely connected, such as between the major cities and their satellite villages. Its negative ramifications are strongly evident in [the city of Hebron](#), where part of the city is under Palestinian control and the other part under Israeli control. Residents of the [Jordan Valley](#) also suffer from the serious consequences of Israel's policy of separating the area from the remainder of the West Bank. The most extreme form of separation exists in the [Gaza Strip](#). (The unique situation that was created in Gaza is briefly addressed at the end of this document.)

The establishment of the Palestinian Authority changed the scope and nature of the powers exercised by the Israeli authorities, and particularly by the military. However, the Palestinian Authority's power is limited, and even in the areas where it operates, a great degree of control continues to rest with the Israeli military commander.

The **construction of the Separation Barrier** inside the Territories, which began in the early 2000s, led to additional dissection of the area. The barrier created isolated [Palestinian enclaves](#) and facilitated the [expansion of the settlements](#) in the name of security. While Israelis are allowed to cross through it freely, the checkpoints and gates established [along the barrier/fence](#) restrict or prohibit passage for Palestinians, despite the fact that they are travelling within the Territories (rather than entering into Israel). A ["seam zone"](#) has been created to the west of the barrier and to the east of the Green Line in which Israelis and foreign citizens can move freely, whereas access by Palestinians

for the purpose of residency or farming is restricted and complicated. Even Palestinians who have lived in this area all their lives are forced to cope with a complex bureaucracy of permits and to face humiliation and violence.

The **regimenting of movement of Palestinians** across the seam lines between these different areas is a key preoccupation of the military, the Israel Security Agency, the police, the Interior Ministry, and additional authorities. Technological advances have created “sophisticated” tools for policing that are implemented inside the West Bank, at the entrances to settlements, between the barrier and the Green Line, along the dividing line between East and West Jerusalem, between Jerusalem and the West Bank, and between the Gaza Strip and the West Bank and Israel. Over the years, the sanctions and periods of imprisonment imposed on those found without the appropriate permits have grown stricter, as have the penalties imposed on those who [transport, house](#) or provide them with accommodation.

This regimentation is intensified during periods of escalation. In some cases, new steps introduced during such periods remain in force even after the situation has calmed. An example of this is the [temporary order](#) amending the Citizenship and Entry into Israel Law. Adopted at the height of the second intifada with the goal of reducing the scope of family unification across the Green Line, this order has since been renewed on an annual basis. The result is that thousands of Palestinians living in Israel and in East Jerusalem have been transformed into illegal aliens or have become dependent on permits from Israel in order to move and to reside in their homes.

The **fragmentation of the Territories and the accompanying regimentation** have serious ramifications for the freedom of movement of Palestinians and for a long series of rights that depend on the ability to move, including the right to family life, health, and education. The Palestinian economy and trade are dependent on daily decisions by military commanders who determine when and how goods and people are permitted to pass, whether restrictions will be imposed on the development of entire industrial sectors, and so forth. The various prohibitions imposed by the military have expanded the circle of poverty and deprivation in the Territories.

## **Creeping Annexation**

Full Israeli military rule in Area C, which accounts for some 60 percent of the West Bank, together with the imposition of Israeli law in East Jerusalem, have created distinct areas in which Palestinians and Israelis live under direct Israeli rule. Over the years, diverse policy tools have been developed in order to **intensify Israeli control of these areas,**

**thereby facilitating the pushing out of Palestinians from areas in which Israel is interested and into areas that Israel does not wish to rule or annex.**

The [pushing out](#) of Palestinians from various parts of the West Bank and Jerusalem has been achieved mainly by means of a policy based on a stubborn refusal to promote [planning and development](#); to connect Palestinian communities and neighborhoods to the [water grid](#); to permit access to farmland, develop industrial zones, and so forth. The restrictions are accompanied by harassment: [demolition of homes](#) built without a permit, confiscation of equipment, sealing of wells, blocking of roads, and heightened military and police presence.

The military regime in the West Bank has developed a legal construction of [one rule, two legal systems](#) – one system for Palestinians and the other for settlers - which enable the actions outlined above. In East Jerusalem, Israeli law imposed on the area permits similar measures that limit and harm Palestinians. At the same time, these same authorities apply planning laws in Area C and in East Jerusalem that facilitate the development and flourishing of settlements, neighborhoods, and [agricultural areas](#) for the benefit of the Israeli population.

Over the **past decade**, efforts to reinforce Israeli control of Area C and the affinity between the area and Israel have intensified. The steps taken to this end are often referred to as creeping annexation, de facto annexation, or ["legal annexation."](#) A committee established on the government's initiative and headed by retired Supreme Court Justice Edmund Levy, determined that the West Bank is not an occupied area, and accordingly the settlements are legal. The committee [recommended policies for approving](#) and regulating construction in the Israeli settlements and outposts. In addition, the Knesset and government have discussed several proposals to [impose Israeli law](#) directly on settlers, and the [justice minister recently announced](#) the formation of a joint team of the Justice Ministry and the Defense Ministry to discuss this issue. Members of Knesset have tabled bills applying specific laws that do not currently apply fully beyond the Green Line, including the [planning and building laws](#), the [youth labor law](#), and the [Women's Employment Law](#).

These steps toward annexation are sometimes facilitated by Israeli bodies established in the West Bank to mirror Israeli institutions. Although they are theoretically under the authority of the military commander, these institutions effectively function independently. For example, the [declaration of Ariel College as a university](#) was made contrary to the opinion in of the Council for Higher Education in Israel, by means of the "Council for Higher Education – Judea and Samaria," a body that is formally subject to the authority of the military commander.

In most cases, such steps are justified in terms of a desire to improve the settlers' lives and ensure their rights, supposedly without any connection to the Palestinian population and with no implications over their lives. In reality, there is an unbreakable connection between the two. **The realization of Israel's interests in areas earmarked for annexation inevitably causes grave damage to the human rights of Palestinians.** The establishment of a new settlement or the expansion of an existing one may lead to the confiscation of land through an official proceeding or to the effective denial of access by Palestinians to [farmland](#) and local natural resources; the closure of [the main entrance](#) to a Palestinian village, forcing residents to use side roads; intensified [military presence](#), frequent clashes with the army and an increase in military raids and [detentions](#); acts of [violence by settlers](#) against Palestinians and their property; and so forth.

In some instances, steps taken to strengthen Israeli law beyond the Green Line have led to an improvement in Palestinians' rights. A key example of this is the ruling granted by an extended bench of the High Court of Justice establishing that Israeli [labor laws](#) that apply to the settlements also apply to Palestinian workers employed on the settlements, who are entitled to claim their rights from Israeli employers. The number of examples of this kind is limited, since changes to Israeli policy do not seek to narrow the gap between the two legal systems.

## **Occupation and Annexation – Without Human Rights**

On the formal level, Israel operates in the West Bank in accordance with international humanitarian law applying to an area occupied in wartime. These rules are defined as "temporary belligerent occupation," and seek to ensure that the residents of the occupied area can continue their routine lives while under temporary military occupation, and to grant them the protection of basic human rights given the absence of such protection under state law.

The Israeli authorities responsible for implementing these rules have failed to do so. They do not observe many of the basic obligations established in the laws of occupation, and violate the prohibition in the law against the transfer of residents of the occupying power to the occupied area. Israel uses the force granted to it in accordance with the laws of occupation in order to extend its ostensibly temporary control, and to create hardships for Palestinian living in areas it wishes to annex – now or in the future.

Israel also exploits the natural resources of the occupied areas to the benefit of the Israeli population on both sides of the Green Line. Once again, this is prohibited in accordance with international humanitarian law. It does so while restricting the Palestinians' use of the same resources. For example, Israeli companies operate quarries

in the Territories and gain profits therefrom, whereas the military [closes quarries](#) operated by Palestinians. Palestinian access to [water sources](#), such as cisterns, wells, and the mountain aquifer, is limited, whereas Israel exploits these sources both for the settlements and for communities inside Israel.

**In summary, Israel exploits the legal framework of the rules of occupation in the West Bank in order to exercise control over the population and the area. It does so without accepting the responsibility inherent in these laws and while systematically violating human rights.**

**Similarly, in East Jerusalem the framework of Israeli law is used to exercise control over the population and the area, without accepting the responsibility inherent in law, and while systematically violating human rights.**

In theory, the application of Israeli law in East Jerusalem and the granting of [Israeli identity cards](#) to Palestinian residents might have ensured that they enjoy rights and liberties guaranteed by the laws of the State of Israel that are not included in the laws of occupation. However, the [policy that has developed](#) toward East Jerusalem is similar, though not identical, to the treatment of the Palestinians who live under military occupation in the West Bank. The Palestinians neighborhoods of East Jerusalem are neglected in every aspect of life and suffer from poor infrastructures, a [failing education system](#), and a lack of development. Palestinian residents of Jerusalem are forced to confront an often-hostile [bureaucracy](#) and severe [police violence](#).

The Jerusalem neighborhoods that have been left on the other side of the Separation Barrier, on the seam line between Jerusalem and the West Bank, provide the most extreme example of the failure of annexation. Although these areas are ostensibly subject to full Israeli sovereignty, the Israeli authorities have abandoned any responsibility for their residents and created a new [no man's land](#) in which there is no municipality, police, or any other authority.

**The Territories are currently subject to a hybrid condition of “occunexation” – a combination of occupation and annexation. Despite the differences between the various types of control in different areas of the West Bank and East Jerusalem, Israeli control – in all its forms and variants – is not accompanied by the responsibility incumbent on those who hold power. For 49 years, this control has prevented the Palestinian residents, as individuals and as a collective, from realizing their basic rights.**

### **The Gaza Strip**

The scope and depth of Israel's control of the Gaza Strip have changed over the years. Since the Disengagement in 2005, Israel no longer maintains physical control inside the Gaza Strip. However, it continues to exercise control in various areas, particularly through the control of the passage of people and [goods](#); airspace and maritime space; the [Population Registry](#); and the customs system.

Israel's control of the borders of the Gaza Strip causes extreme harm to the basic human rights and liberties of over one million residents of the area, and has a significant impact on the economic situation and the poverty levels suffered in Gaza.

While the legal status of the Gaza Strip is the subject of [impassioned debate](#), no-one disagrees that Israel's control has a broad-based impact on the area. This control creates responsibility – a responsibility that Israel is currently shirking by imposing a policy based on the [extreme isolation](#) of the Gaza Strip.